

**Section 4-1600 Mountainside Development Overlay District (MDOD)**

**Comment:** This section amends Section 4-1600 of the Loudoun County Zoning Ordinance. All procedures by which the regulations will be applied, including conservation design, will be located in Article VI, "Development Process and Administration," (to be drafted). New definitions to be added to Article VIII of the Zoning Ordinance are appended to these regulations for convenience of the reviewer.

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**4-1601 Purpose and Intent.** The purpose of this ordinance is to implement the policies of the Loudoun County Revised General Plan. Specifically, these provisions are created to regulate land use and development on the mountains and mountainsides of the county in such a manner as to:

- (A) Assure mountainside development will not result in damage to the unique mountainside ecological system and the associated wildlife habitats, native vegetation and plant communities;
- (B) Assure that mountainside development is compatible with the slope of the land and other areas known to be susceptible to the potential for debris flows;
- (C) Assure proper design is used for grading and in the development of structures, roads and drainage improvements;
- (D) Assure mountainside ecology and conditions are properly identified and incorporated into the planning process for subdivision and site development;
- (E) Reduce the potential for erosion, sedimentation, and downstream flooding;
- (F) Implement the mountainside policies of the Revised General Plan;

(G) Protect the rural character and property values of the district; and

(H) Preserve the forested landscape and visual quality of the mountainside, which is both a valuable natural and economic resource to the County.

**4-1602 Authority.** Authority for these provisions includes:

(A) Chapter 11, Title 15.2, Code of Virginia (Planning, Subdivision of Land and Zoning).

(B) Soil Conservation Districts Law, Va. Code Sections 21-2(c), 21-2(d).

(C) Virginia Environmental Quality Act, Va. Code Section 10-178.

(D) Erosion and Sediment Control Act, Va. Code Section 21-89.2.

**4-1603 Applicability and Exemptions.**

(A) **Applicability—Land Area and Features included in the MDOD.** This Section 4-1600 shall apply to all land areas and features included in the Mountainside Development Overlay District (MDOD), as shown on the official Mountainside Development Overlay District Map of Loudoun County (“MDOD Map”), attached to this Ordinance as Appendix \_\_\_, and which, together with all explanatory matter thereon, is hereby incorporated by reference.

(B) **Applicability—Covered Activities.** This Section 4-1600 shall apply to all proposed land disturbing activity within the MDOD, including new single-family dwelling development and subdivision. Expansion, alteration, or reconstruction of buildings, structures, and impervious surface areas existing on October 4, 1995 (*Question: insert effective date of original ordinance?*) shall not be covered, provided that such alteration does not increase the total floor area of a structure by more than fifty percent (50%).

**Note:** “Exemptions,” below, are carried over from previous section 4-1603.

(C) **Exemptions.**

(1) Agricultural operations shall be conducted only in conformance with an approved locational clearance in accordance with the Facilities Standards Manual and a

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Conservation Farm Management Plan approved by the Loudoun County Soil and Water Conservation District.

(2) Timber harvesting shall be conducted only in conformance with a Forest Management Plan approved by both the Virginia Division of Forestry and the County.

(D) **Waivers.** Administrative waivers of standards are allowed, in accordance with Article VI, “Development Process and Administration, *(to be drafted)*).

**4-1604 Review Procedures.** All development approvals, review procedures, modifications, and density calculations are governed by Article VI, “Development Process and Administration, *(to be drafted)*, and *(proposed)* Section \_\_\_\_, “Conservation Design Process.” In delineating permissible development areas as part of conservation design, an applicant shall consider the entire mountainside ecosystem, as defined in Section 4-1605, and shall comply with the following steps:

(A) Preferred development sites are those that:

(1) Avoid all three MDOD sensitivity areas, which—as described in section 4-1605 below—comprise the entire mountainside ecological system;

(2) Do not impair, interrupt, or fragment the functioning of the mountainside ecological system as a groundwater recharge area; and

(3) Protect the safety of residents and their property.

(B) If compliance with subsection (A) above does not result in sufficient land area to accommodate the development density permitted by the underlying zoning, then the applicant may consider development in the MDOD “somewhat sensitive” area.

(C) If compliance with subsection (B) above does not result in sufficient land area to accommodate the development density permitted by the underlying zoning, then the applicant may consider development in the MDOD “sensitive” area.

(D) If compliance with subsection (C) above does not result in sufficient land area to accommodate the development density permitted by the

underlying zoning, then the applicant may consider development in the MDOD “highly sensitive” area.

**4-1605 Establishment of the MDOD Sensitivity Areas**

(A) The following three sensitivity areas are hereby designated within the MDOD, as shown on the MDOD Map:

- (1) **Somewhat Sensitive Area.** Area susceptible to limited environmental and public safety adverse impacts from development.

***Comment:** The classification “somewhat sensitive” is consistent with the existing provisions and the MDOD Map. Consultant recommends changing the term “somewhat” to “moderately,” more commonly used in ordinance language.*

- (2) **Sensitive Area.** Area susceptible to environmental and public safety adverse impacts from development.

- (3) **Highly Sensitive Area.** Area susceptible to severe environmental and public safety adverse impacts from development.

(B) The mountainside ecological system and sensitivity areas are defined by the varying presence of four primary elements, including:

- (1) **Elevation.** Above 700 feet mean sea level for the Short Hill and Blue Ridge Mountains and above 550 feet for the Catoctin, Hogback, and Bull Run Mountains;

- (2) **Soils.** Soils associated with mountainsides that affect groundwater recharge, slippage potential, and suitability for onsite sewage disposal systems;

- (3) **Slopes.** Moderately steep slopes (15 to 25%) and steep slopes (greater than 25%); and

- (4) **Forests.** The extent of tree cover, woodlands, and forest.

- (C) The MDOD Map represents a combination of elements and does not delineate singular mountain features, such as ridgelines and forest areas.

**4-1606 Permitted Uses and Activities**

- (A) **Permitted Uses.** All uses and structures permitted by right in the underlying zoning district are permitted, subject to the review procedures and development standards in this Section 4-1600 and Article VI, except that subdivisions with three (3) or more lots may only be allowed as a special exception, as described under Section 4-1607, “Special Exception Uses.”

**4-1607 Special Exception Uses.** All uses and structures permitted by special exception in the underlying zoning district may be permitted in the MDOD in accordance with Section 6-1300, “Special Exception,” of the Zoning Ordinance, and subject to the review procedures and development standards in Section 4-1608, with the following exceptions:

- (A) All cluster subdivisions; and
- (B) Proposed subdivisions with three (3) or more lots that contain MDOD highly sensitive area(s).

**4-1608 Development Standards for the MDOD.** In addition to review procedures set forth in Section 4-1604 above and the Conservation Design Procedures in Section \_\_\_\_\_ (*proposed*), all uses and land disturbing activities permitted by right or special exception in the MDOD shall comply with the following standards:

(A) **Maximum Land Disturbance.**

(1) **Maximum Land Disturbance—MDOD Highly Sensitive Area.**

- (a) Land disturbing activities shall not occur within the MDOD highly sensitive area if a feasible alternative exists. Applicant shall obtain a special exception permit for land disturbing activities in the highly sensitive area.
- (b) Land disturbing activities shall in no case exceed the following amount in the highly sensitive area:

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(i) One (1) acre of highly sensitive area, on lots containing ten (10) acres or less, or

(ii) Ten percent (10%) of highly sensitive area, on lots containing more than ten (10) acres.

(2) **Maximum Land Disturbance—MDOD Sensitive and Somewhat Sensitive Area.**

(a) Land disturbing activities shall in no case exceed the following amount within the MDOD sensitive and moderately sensitive areas:

(i) Two (2) acres of sensitive and somewhat sensitive area, on lots containing ten (10) acres or less, or

(ii) Twenty percent (20%) of sensitive and somewhat sensitive area, on lots containing more than ten (10) acres.

(B) **Stormwater Management.** Stormwater management shall follow standards specified in Chapter 5 of the Facilities Standards Manual such that post-development run off and pollution load shall not exceed the pre-development load of nutrients and sediment.

(C) **Roads and Driveways in Soil Mapping Units 59 and 88.** Roads and driveways shall not be permitted in Soil Mapping Units 59 and 88.

(D) **Tree and Forest Conservation.** Conservation of (1) individual trees, (2) contiguous forests, and (3) trees or plants determined to be rare, threatened, or endangered under the federal Endangered Species Act shall be in accordance with Chapter 7 of the Facilities Standards Manual (7.3) (*proposed section*) and the following requirements:

(1) During the Conservation Design Process, described in Section \_\_\_\_, tree and vegetation clearing shall be minimized to the maximum extent feasible to locate a use or activity and shall not exceed the following amounts:  
(*Note: (a) through (d) based on existing provisions*)

(a) No more than 50% of forested areas on existing slopes that are less than 15%.

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- (b) No more than 25% of forested areas on moderately steep slope areas (15 to 25%).
- (c) Forest clearing is prohibited on steep slope areas (greater than 25%), except for driveways.
- (d) Clearing shall be reduced by 50% of above provisions (a) through (c) on unstable soils and groundwater recharge soils (i.e., mapping units 27, 48, 50, 52, 54, 55 and 89).

(E) **Ridgeline Setbacks.** Properties containing ridgelines in the MDOD, as identified through the conservation design process and based on the definition of “ridgeline” in this Zoning Ordinance, shall comply with the following standards so that structures blend more naturally into the mountain landscape:

- (1) Land disturbing activities are prohibited on a ridgeline, including the crest of a hill or slope so designated, and on land located within one hundred (100) horizontal feet on either side of the ridgeline, unless the ridgeline is the location on a property where development or land disturbing activities will have the least adverse impact based on application of environmental overlay district and resource protection standards set forth in the zoning ordinance.
- (2) Buildings shall be designed to complement the visual context of the mountainsides in terms of materials, colors and other natural features to blend with the visual character of the area.

(F) **Headwaters of Catoctin Creek and Goose Creek.** The headwaters of the Catoctin Creek and Goose Creek originate in the Blue Ridge, Shorthill and Catoctin Mountain. No land disturbing activity shall occur within one hundred (100) feet from the stream banks of these headwater stream segments in the MDOD.

(G) **Protection of Springs.** Land disturbing activities, development, and impervious surface coverage are prohibited within one hundred (100) feet from a spring, measured from the vertical source of a spring on flat terrain or from the first emergence of a spring on a steep slope (15% or greater).

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- 1 (H) **Protected River and Stream Corridors.** Any property containing  
2 a river or stream that is delineated on the River and Stream Corridor  
3 Overlay District (RSCOD) Map shall be subject to the protection  
4 standards in Section 4-2000, RSCOD.
- 5 (I) **Steep Slopes.** Any property in the MDOD containing steep slopes  
6 (15% or greater) as defined in Section 5-1508, "Steep Slopes  
7 Standards," of this Zoning Ordinance shall comply with  
8 development standards in the Section 5-1508.

9 ***Notes:** (1) Steep slope criteria removed; steep slope standards in*  
10 *revised Section 5-1508 will apply. (2) Detailed submittal requirements*  
11 *removed. They are in FSM.*